

Application No.: 10/038,613

REMARKS

The indication of allowable subject matter in claims 10-12 is acknowledged and appreciated. Claim 10 has been rewritten into independent form. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

Claim 7 stands rejected under 35 U.S.C. § 112, second paragraph. It is respectfully submitted that the enclosed amendment obviates the alleged indefiniteness. Accordingly, it is respectfully requested that this rejection be withdrawn.

Claims 1 and 7 are the rejected independent claims.

Claim 1 stands rejected under 35 U.S.C. § 103 as being unpatentable over Aoki et al. '696 ("Aoki") in view of Engdahl et al. '571 ("Engdahl"). This rejection is respectfully traversed for the following reasons.

Claim 1 recites in pertinent part, "a duty factor controller for adjusting a data transition characteristic of the transceiver means so as to reduce a duty factor error in a data signal supplied from the transceiver means" The Examiner alleges that col. 11, lines 16-35 and col. 12, lines 15-20, 35-40 of Aoki disclose the claimed duty factor controller. The Examiner's reliance on the cited portions of Aoki is not understood.

As a preliminary matter, the Examiner does not identify which *specific* element of Aoki is being read as the duty factor controller, and instead references only general wide-ranging sections of the specification. In imposing a rejection under 35 U.S.C. § 103, the Examiner is required to point to "page and line" wherein an applied reference is perceived to identically disclose *each feature* of a claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955

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(Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). In the instant case, it is respectfully submitted that the Examiner has not identified the specific elements of Aoki being relied upon to read on each feature of the claimed invention.

It appears that the Examiner may be relying on the element of Aoki which outputs the duty information 109 (e.g., duty judging circuit 8 shown in Figure 24) as the claimed duty factor controller. However, the alleged duty factor controller of Aoki does not adjust a data transition characteristic of a transceiver means so as to reduce a duty factor error in a data signal supplied from the transceiver means. Rather, the outputted duty information 109 is simply used in a PLL circuit (*see* admitted prior art discussed on pages 1-2 of Applicants' specification), whereby the duty information 109 is one of the parameters based upon which a given data signal is selected from a plurality of data signals. Aoki is completely silent as to a controller which adjusts a data transition characteristic of a transceiver means where, e.g., in one exemplary embodiment of the present invention as shown in Figure 1 of Applicants' drawings, a duty factor controller 20 can output a feed back control signal DCONT to the transceiver to adjust the duty factor of a data signal.

Moreover, it is respectfully submitted that Engdahl does not obviate the aforementioned deficiencies of Aoki. Similarly to Aoki, the Examiner references only general wide-ranging sections of Engdahl's specification without identifying specific elements allegedly corresponding to the claimed elements. Nonetheless, the Examiner appears to rely on Engdahl only for allegedly disclosing elements composing the transceiver (e.g., driver, receiver, etc.), and not for obviating the aforementioned deficiencies of Aoki. Indeed, Engdahl appears to be completely silent as to a controller which adjusts a data transition characteristic of a transceiver means.

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The Examiner is directed to MPEP § 2143.03 under the section entitled "All Claim Limitations Must Be Taught or Suggested", which sets forth the applicable standard for establishing obviousness under § 103:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (citing *In re Royka*, 180 USPQ 580 (CCPA 1974)).

In the instant case, the pending rejection does not "establish *prima facie* obviousness of [the] claimed invention" as recited in claim 1 because the proposed combination fails the "all the claim limitations" standard required under § 103.

Claim 7 stands rejected under 35 U.S.C. § 102 as being anticipated by Miyashita et al. '828 ("Miyashita"). This rejection is respectfully traversed for the following reasons. In order to expedite issuance of the present application and without prejudice/disclaimer to the subject embodied thereby, claim 7 has been amended to incorporate the limitation of claim 9.

Claim 7, as amended, recites in pertinent part, "means for controlling a transition characteristic of the data signal according to an output of one of the first and second phase detectors." Miyashita appears to be completely silent as to a means for controlling *a transition characteristic of the data signal*, let alone doing so according to an output of one of the first and second phase detectors. In contrast, the relied on portions of Miyashita (i.e., abstract; col. 2, lines 51-67; col. 3, lines 1-4) merely disclose conventional means by which the frequency difference between the data clock and the VCO clock can be *detected*. The relied on portions of Miyashita do not disclose or suggest *control* of a transition characteristic of the data signal itself, let alone according to a phase detector output. One exemplary embodiment/manner of providing such control is exemplified, for example, in Figure 7 of Applicants' drawings, whereby the

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control signal DCONT can be fed back to the receiver 101 (*see, e.g.*, page 12, lines 3-7 of Applicants' specification).

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Miyashita does not anticipate claim 7, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 1 and 7 are patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejections under 35 U.S.C. § 102 and 103 be withdrawn.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's

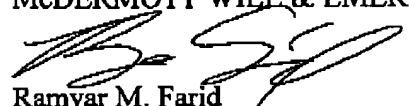
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amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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